

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BRIAN BEMKE (on behalf of himself and others similarly situated),
SCOTT COLLETT (on behalf of himself and others similarly situated),
JOHN FERIOZZI (on behalf of himself and others similarly situated),
JUDY FINTZ (on behalf of herself and others similarly situated),
SARAH JAMIESON (on behalf of herself and others similarly situated),
EVAN JOHNSON (on behalf of himself and others similarly situated),
TRACY LONG (on behalf of herself and others similarly situated), and
CLIFFORD NEUMANN (on behalf of himself and others similarly situated),

Plaintiffs,

Case No. 21-cv-560

v.

AMY PECHACEK, in her official capacity as Secretary-designee of the State of Wisconsin Department of
Workforce Development,

Defendant.

DECLARATION OF VICTOR FORBERGER

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Victor Forberger, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an attorney licensed to practice in the State of Wisconsin and am one of the attorneys representing the plaintiffs in the above-referenced action. I make this declaration in support of the plaintiffs' motion for a preliminary injunction.
2. Attached as **Exhibit 1** is a true and correct copy of the Department of Workforce Development's original proposal for the SSDI eligibility ban, D12-05 (Oct. 16, 2012).
3. Attached as **Exhibit 2** is a true and correct copy of Frank Cristaudo, Chief ALJ Social Security Administration, "Receipt of Unemployment Insurance Benefits by Claimant Applying for Disability Benefits — REMINDER" (August 9, 2010).

4. Attached as **Exhibit 3** is a true and correct copy of Caleb Frostman, Letter to Sec. Scalia, U.S. Dep't of Labor (June 9, 2020).
5. Attached as **Exhibit 4** is a true and correct copy of an e-mail message dated June 9, 2020 that senior Department of Workforce Development attorney, Andrew Rubsam, sent to me, stating the SSDI recipients are by law ineligible for any unemployment benefits and that appeals of such denials are questionable.
6. Attached as **Exhibit 5** is a true and correct copy of Initial Determination 210311960 dated February 18, 2021, that the Department of Workforce Developed issued against plaintiff Tracy Long alleging that Ms. Long committed unemployment fraud when she failed to report her immediate receipt of SSDI benefits.
7. Attached as **Exhibit 6** is a true and correct copy of the claimant statement from the hearing file concerning Initial Determination 210311960 that purports to contain Ms. Long's alleged admission to committing unemployment fraud.
8. Attached as **Exhibit 7** is a true and correct copy of the response Ms. Long submitted to the unemployment hearing office of the Department of Workforce Development on June 26, 2021, concerning her alleged admission to unemployment fraud.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 7th day of September 2021.

/s/ Victor Forberger
Victor Forberger